

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLY CARL LYONS,

Plaintiff,

No. CIV S-01-0412 LKK KJM P

vs.

D. BAUGHMAN,

Defendant.

ORDER

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Plaintiff has requested the appointment of counsel. The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the court will refer the case to counsel for evaluation; this order is not, however, to be deemed an order appointing counsel. Unless and until counsel is appointed, plaintiff should proceed on the assumption he will represent himself at trial.

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1 IT IS HEREBY ORDERED that:

2 1. The Clerk of the Court is directed to serve on Daniela F. Almeida, Esq.,
3 contact for the Sacramento Chapter of the Federal Bar Association, and on Jeffrey I.
4 Schwarzschild, Esq., Chair of the Constitutional Law and Civil Rights Section of the Sacramento
5 County Bar Association, the following: a copy of this order, the amended complaint filed May
6 21, 2001 (docket no. 3), the answers filed May 14, 2002 and August 29, 2002 (docket nos. 16,
7 19), and the pretrial order being filed concurrently. Counsel may refer to the court's electronic
8 docket for this case for copies of court orders.

9 2. Within thirty days of the date of this order, counsel is directed to inform the
10 court by letter whether any member of their respective organizations will accept appointment as
11 trial counsel for plaintiff.

12 DATED: December 29, 2005.

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15 UNITED STATES MAGISTRATE JUDGE
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